

**REMARKS-General**

1. The amended independent claims 1 and 43 incorporate all structural limitations of the original claim 1 and 43 and include further limitations previously brought forth in the disclosure. No new matter has been included. All amended claims 1-12, 15-24, and 35-53 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

**Regarding to Rejection of Claims 1, 3, 5, 7, 9, 11, 15, 19, 21, 23, 25, 27, 29, 31, 33, 39, 41, 43, 44, and 45 under 35USC102**

2. The Examiner rejected claims 1, 3, 5, 7, 9, 11, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 39, 41, 43, 44, and 45 as being unpatentable by Goldenberg (US 2002/0065682).

3. However, the Goldenberg and the instant invention are **not the same invention** according to the fact that the independent claim 1 or 43 of the instant invention does not read upon the Goldenberg. Apparently, Goldenberg fails to anticipate the distinctive features of the instant invention as follows:

(a) In claims 1 and 43, “a method of providing a distance-treatment” is claimed that enables a user to receive biological treatment at his or her own place under professional instruction, wherein Goldenberg merely teaches a virtual doctor interactive cybernet system for providing a user with multiple levels of service to accommodate the user's specific needs. Goldenberg teaches level 1 for retrieving user's information, level 2 permitting the client to comment on the adequacy of the information/literature provided and to request further follow-up with more specific information, level 3 for the health care professional advising the patient regarding the information needed, and what further actions may be necessary, and level 4 of using the virtual doctor to monitor and control the patient's body functions. The instant invention which is the live-reaction information of the user during treatment is fed back to the service provider through the public network so that the service provider may adjust the user's treatment instrument through the public network correspondingly. In other words, the objective of the instant invention is the interactivity between the treatment instrument and the service provider to provide a distance treatment of the user while the objective of Goldenberg is the interactivity between the patient and the virtual doctor to diagnose the illness of the

patient. The applicant respectfully submits that the interactivity of the instant invention is to send out the responsive health information as a feedback and to receive an updated treatment signal to control and adjust properties of the digital treatment signals of the treatment information data package for the treatment instrument to provide a better and more effective treatment result. Goldenberg is silent regarding such treatment interactivity.

(b) In claims 1 and 43, “a treatment information data package is selected from a treatment information database based on the treatment request and a health information profile of the user” is claimed to control a treatment operated by the treatment instrument, wherein Goldenberg merely teaches, paragraph 0059, treatments, such as performing a blood test, taking an image of the patient, delivering a drug into the patient may be administered to the patient by the treatment device 806. It is apparent that Goldenberg fails to anticipate and teach how to select the treatment information data package to control the treatment operated by the treatment instrument. In other words, the treatment device 806 of Goldenberg is mere a communication device to guide what kind of treatment is desired for the patient from the virtual doctor after the virtual doctor diagnose the patient.

(c) In claims 1 and 43, “a responsive heat information of the user is **fed back** to the service provider” is claimed for controlling and adjusting properties of the digital treatment signals of the treatment information data package to be sent from the service provider to the information connection system of the user, wherein Goldenberg is silent regarding any feedback to the service provider to control and adjust properties of the digital treatment signals of the treatment information data package. In paragraphs 0059 to 0061, Goldenberg merely teaches “the second treatment device 810 receives patient information from the monitoring device 808 and sends a treatment signal to the treatment device 806” and “imaging data can be used for monitoring, diagnostic, and therapeutic/treatment” without any mention of any feedback to control and adjust properties of the digital treatment signals of the treatment information data package. As it is mentioned above, the instant invention is the live-reaction information that the interactivity between the treatment instrument and the service provider to provide a distance treatment of the user by instantly feeding back the responsive heat information to control and adjust properties of the digital treatment signals of the treatment

information data package. In other words, the treatment device 806 of Goldenberg does not contain any responsive feedback to control and adjust the treatment signal.

(d) Goldenberg fails to teach how to obtain an **updated** digital treatment signal as claimed in claims 1 and 43. The instant invention provides the substantial steps to obtain the updated signal to control and adjust the treatment signals of the treatment information data package. In particular, the claiming elements of a process claim are the acts in the steps included, Goldenberg fails to anticipate the elements of (f-1) detecting.... (f-2) sending ... (f-3) feeding ... (f-4) evaluating ... (f-5) adjusting ... and (f-6) sending ... as claimed in the claim 1. Goldenberg is silent regarding how to evaluate the feedback treatment signal in order to adjust the treatment signal to become the updated treatment signal. In other words, A mere recitation of the treatment signal including a signal from/to either a diagnostic or a therapeutic device in Goldenberg does not anticipate or suggest any treatment signal being updated to control and adjust the properties of the digital treatment signals of the treatment information data package.

(e) In claims 1 and 43, "the current health information is **continuously feeding back** to the service provider so as to render the biological treatment becoming a live-treatment that the digital treatment signals of the treatment information data package is controlled and adjusted correspondingly through the Internet" is claimed to provide a better and more effective treatment result. The applicant respectfully submits that in order to provide a live-treatment for the user, the feedback must be continuously sent to the service provider such that the treatment signal can be always updated to control and adjust the properties of the digital treatment signals of the treatment information data package so as to provide a better and more effective treatment result. However, Goldenberg is silent regarding how to continuously update the treatment signal and to continuously adjust the treatment signal.

(f) Goldenberg only suggests the interactive level of the monitoring device may also provide image data wherein the image data allows remote observation of a patient's condition without any mention of **how to send and feed back the responsive health information**. The applicant respectfully submits the feedback treatment signal is not by observing the patient by means of the image data wherein the feedback treatment signal is obtained by, in page 17, lines 18-22, requesting the user to input his or her health information including his or her **feeling, progress and symptom** so as to

**control and adjust the digital treatment signals** of the treatment information data package to be sent from the service provider to the computer of the user. In other words, the monitoring device of Goldenberg is totally different from the concept feeding back responsive health information of the instant invention as claimed in claims 1 and 43.

(g) Goldenberg fails to teach the step of providing the treatment information database and a health information database for the service provider as claimed in claim 3. Accordingly, Goldenberg merely teaches the user health information is obtained through the diagnosis of the virtual doctor. The applicant respectfully submits that the user is preferred to physically interview his or her doctor to obtain his or her updated diagnosis such that the user is able to input the health information to the service provider for live-treatment. In other words, no diagnosis is required in the instant invention.

(h) Goldenberg fails to teach the personal general information is input by the user for live-treatment only as claimed in claims 5, 7, 11, 15, 17 and 19. Goldenberg merely teaches the user information for the user to access the desired level including diagnosis.

(i) Goldenberg fails to teach the step of registering the treatment instrument in the service provider so as to make a corresponding record in the health information profile of the respective registered user as claimed in claim 9. Goldenberg merely teaches "at the level of using the virtual doctor to monitor and control the patient's body functions, the system involves home or local telemedicine devices that provide information on different body systems and functions to the central or subsidiary servers for analysis or intervention" without any mention of how to send the feedback and update the treatment signal to control and adjust the properties of the digital treatment signals of the treatment information data package for the treatment instrument. The applicant respectfully submits in order to control and adjust the properties of the digital treatment signals for the treatment instrument, the treatment instrument must be registered for being controlled.

(j) Goldenberg fails to teach the steps of enabling the user to select the particular health problem and disease and selecting, by the service provider, the specific

treatment information data package from the treatment information database regarding to the selected recommended biological treatment as claimed in claims 21 and 23. Goldenberg merely teaches "The professionals selected may be arrived at based on their expertise or their geographic proximity to the patient; the patient can then review the professional's resume at step 511 and approve one or more professionals at step 512" without any mention of any treatment information data package for controlling the treatment instrument. The applicant respectfully submits that the treatment information data package, which is selected by the service provider, contains the digital treatment signals adapted for controlling the specific treatment instrument connected to the information connection system of the user.

(k) Goldenberg fails to teach the responsive health information of the user is obtained by **requesting the user** to input the responsive health information, including a feeling, progress and symptom of the registered user as claimed in claims 39 and 41. Goldenberg merely teaches a practitioner may control the treatment of a patient that the practitioner can transmit control information to the patient, or another individual, who would then have to control the equipment without any mention of any request from the user to input the responsive health information, including a feeling, progress and symptom of the user. The applicant respectfully submits the responsive health information is used for controlling and adjusting the treatment signal of the treatment information data package.

(l) Goldenberg fails to teach the information connection system comprises a personal computer for live-treatment that the treatment signal is continuously fed back and updated to control and adjust the digital treatment signals of the treatment information data package as claimed in claims 44 and 45.

4. Accordingly, Goldenberg fails to anticipate the distinctive features (a) to (l) of the instant invention.

5. Applicant believes that the rejection of claims 11, 3, 5, 7, 9, 11, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 39, 41, 43, 44, and 45 is improper and should be withdrawn.

**Response to Rejection of Claims 2, 4, 6, 8, 10, 12, 16, 18, 20, 22, 24, 26, 28, 30, 34, 35, 36, 37, 38, 40, 42, 46, 47 and 48 under 35USC103**

6. The Examiner rejected claims 2, 4, 6, 8, 10, 12, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 35, 36, 37, 38, 40, 42, 46, 47, and 48 over Goldenberg in view of Albert et al (US 5,735,285) and further in view of Khaled et al (US 5,416,804), Swing (US 6,522,929), and/or Bologna (2003/0023129). Pursuant to 35 U.S.C. 103:

“(a) A patent may not be obtained though the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

7. In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

8. In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Goldenberg which is qualified as prior art of the instant invention under 35USC102(e) are obvious in view of Albert at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

9. However, as recited above, Goldenberg merely discloses a virtual doctor interactive cybernet system for providing a user with multiple levels of service to accommodate the user's specific needs from diagnosis to treatment without any mention of how to send out any feedback and receive any updated treatment signal to control and adjust properties of the digital treatment signals of the treatment information data package so as to provide a live-reaction information to the user.

10. Therefore, the difference between Goldenberg and the instant invention as claimed in claims 1-12, 15-24, and 35-53 is not limited to the disclosure of "treatment", but includes the above distinctive features (a) to (l). In addition, regarding to claims 1-12, 15-24, and 35-53, the instant invention further contains the following distinctive features:

(m) Goldenberg fails to teach the step of **decoding** the digital treatment signals into analog treatment signals as claimed in claim 2 in addition to what is claimed in claim 1 as a whole. Accordingly, Goldenberg merely teaches the treatment signal is a communication signal between the patient and the virtual doctor. The applicant respectfully submits the converted treatment signal is sent to the treatment instrument to program and control the treatment of the user when the treatment instrument is an analog type treatment instrument.

(n) Goldenberg fails to teach that the current health information detected are analog signals which are converted into digital signals of the responsive health information for transmitting back to the service provider through Internet as claimed in claims 35 to 38 in addition to what is claimed in claim 1 as a whole. Goldenberg is silent regarding any feedback from the treatment device as an analog signal being converted into digital form for sending back to the virtual doctor.

(o) Goldenberg fails to teach any **decoder** connected between the information connection system and the treatment instrument to convert the digital treatment signals received by the information connection system from the service provider to respective analog signals to control the treatment of the treatment instrument as claimed in claims 46 to 47 in addition to what is claimed in claim 43 as a whole.

(p) Goldenberg fails to teach the treatment instrument comprises a power source, an information input connection wherein the decoder is **an internal decoder** installed in the information connection system as claimed in claim 48 in addition to what is claimed in claim 43 as a whole. Accordingly, Goldenberg is silent regarding any internal decoder.

(q) Goldenberg fails to teach the decoder is an external decoder physically connected between the information connection system and the treatment instrument as

claimed in claim 49 in addition to what is claimed in claim 43 as a whole. Accordingly, Goldenberg is silent regarding any external decoder.

(r) Goldenberg fails to teach the treatment instrument is **an electrical acupuncture device** for operating electrical acupuncture treatment or **an electromagnetic wave generator** for producing electromagnetic waves with a predetermined frequency as claimed in claims 50 to 53 in addition to what is claimed in claim 43. The applicant respectfully submits that the treatment signal is updated to control and adjust properties of the digital treatment signals of the treatment information data package for the electrical acupuncture or the electromagnetic wave generator. Goldenberg is silent regarding how to control and adjust the treatment signal for the electrical acupuncture or the electromagnetic wave generator.

11. Whether the claims 1 to 40 as amended of the instant invention are obvious depends on whether the above differences (a) to (r) between the instant invention and Goldenberg are obvious in view of Albert et al at the time of the invention was made.

12. Furthermore, the applicant respectfully submits that when applying 35 USC 103, the following tenets of patent law must be adhered to:

- (a) The claimed invention must be considered as a whole;
- (b) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (c) The references must be viewed without the benefit of hindsight vision afforded by the claimed invention; and
- (d) Reasonable expectation of success is the standard with which obviousness is determined.

Also, "The mere fact that a reference could be modified to produce the patented invention would not make the modification obvious unless it is suggested by the prior art." *Libbey-Owens-Ford v. BOC Group*, 4 USPQ 2d 1097, 1103 (DCNJ 1987).

13. Albert merely teaches the analogy to digital converter converting the ECG monitoring signal without any mention of how to convert the signal from the treatment



instrument of the instant invention. The monitoring device of Albert is a Hear Card to detect the ECG signal from the patient. However, the treatment instrument of the instant invention is used for patient treatment. Therefore, neither Goldenberg nor Albert suggests a method for distance treatment containing the above distinctive features (a) to (r) as claimed in the instant invention as well as any combination or possibility of sending a responsive health information as a feedback and receiving an updated treatment signal to control and adjust properties of the digital treatment signals of the treatment information data package for the treatment instrument to provide a better and more effective treatment result.

14. Khaled merely teaches a digital signal decoder using concatenated codes without any suggestion of how such decoder incorporating with the treatment instrument such that the analogy feedback and digitally updated treatment signal are converted to communicate between the service provider and the treatment instrument for controlling and adjusting properties of the digital treatment signals.

15. Swing merely teaches a method for healing an injury of a patient using an electrical stimulator and acupuncture needles without any suggestion of how such acupuncture needles using as the treatment instrument sending out the feedback and receiving the updated treatment signal to control the treatment of the user in responsive to the treatment request and treatment signal.

16. Bologna, on the other hand, merely teaches a generator of electromagnetic waves for medical use for personal physical and psychological wellbeing without any suggestion of how such generator using as the treatment instrument sending out the feedback and receiving the updated treatment signal to control the treatment of the user in responsive to the treatment request and treatment signal.

17. "To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited art references for combination in the manner claimed... [T]he suggestion to combine requirement stands as a critical safeguard against hindsight analysis and rote

application of the legal test for obviousness..." *In re Gorman*, 933 F.2d 982, 986, 18 USPQ 2d 1885, 1888 (Fed. Cir. 1991).

18. Accordingly, the applicant believes that neither Goldenberg, Albert, Khaled, Swing, nor Bologna, separately or in combination, suggests or makes any mention whatsoever of the difference subject features (a) to (r) as claimed in the amended claims 1-12, 15-24, and 35-53 of the instant invention.

19. Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.


#### **The Cited but Non-Applied References**

20. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

21. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the objection are requested. Allowance of claims 1-12, 15-24, and 35-53 at an early date is solicited.

22. Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



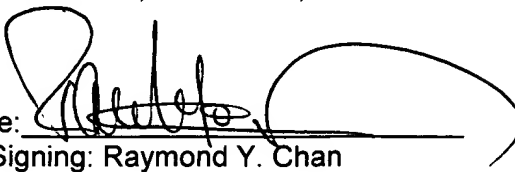
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